

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

PRISON LEGAL NEWS,
Plaintiff

v.

SHERIFF FREDDIE POOR, individually §
and in his official capacity as the Sheriff of §
Galveston County, GEAN LEONARD, §
R. C. DELACRUZ, JR., and GALVESTON §
COUNTY §

CIVIL ACTION NO. 3:10-cv-00251

STIPULATED JUDGMENT AND SETTLEMENT AGREEMENT

Plaintiff Prison Legal News (“PLN”) and Defendants Freddie Poor, in his official capacity, and Galveston County (“Defendants”) stipulate to the following and agree this case will be dismissed on the following terms:

1. Plaintiff PLN brought claims in this cause of action against Defendants for violations of its rights under the First and Fourteenth Amendments to the United States Constitution.
2. For and in consideration of the provisions of this agreement, PLN settles with and releases Defendants, their officers, agents, employees, and departments, for any and all existing claims, damages and causes of action arising out of the claims described in case 3:10-cv-00251, which is the source of all settled claims; provided, however, that nothing in this settlement agreement and release shall be construed to prevent or limit PLN from moving in this court to enforce the terms of this settlement agreement.
3. Defendants acknowledge that the magazine *Prison Legal News*, renewal notices for the magazine, book fliers and order forms (“catalogs”), and similar types of mail are permitted types of mail into all Galveston County correctional facilities, regardless of the postal class by which they are sent. Defendants agree that PLN can send its properly addressed magazine, renewal

notices for the magazine, book fliers and order forms ("catalogs"), and similar types of mail to inmates in all Galveston County facilities, without proof of payment, registration by an inmate of his or her subscription, or any other similarly restrictive requirements.

4. Defendants agree that PLN is an approved book distributor and/or vendor, and will provide written confirmation of this status to PLN. Books distributed by PLN are permitted mail at all Galveston County correctional facilities, regardless of the postal class by which the books are sent.

5. Nothing in this settlement agreement and release shall be construed to prevent or limit Defendants or their agents, employees and departments from continuing to review, reject, process and dispose of inmate mail for reasons of prohibited content. This reserves Galveston County's authority to review content for reasons such as security, safety, institutional discipline and to monitor criminal activity. Galveston County agrees to adopt the incoming publications policy attached as Exhibit A. The parties agree that the policy may be amended from time to time to incorporate other provisions as necessary, but such amendments may not create more restrictions on the receipt of publications other than those set forth herein.

6. PLN is entitled to receive notice of every mail rejection or undelivered item sent by PLN to an inmate in the jail, together with a statement or indication of the reason for rejection or non-delivery, regardless of the postal class by which the rejected piece of mail is sent, pursuant to the policy attached as Exhibit A. If the rejection is for content based reasons, PLN will receive a written explanation for why the content is non-compliant with Galveston County regulations within ten business days of the rejection. The explanation will clearly explain the reason for the censorship and the party to whom PLN can direct an appeal of the censorship decision, as per the policy attached as Exhibit A. The Galveston County jail mailroom will hold the item during the pendency of any administrative appeals and deliver the item to the addressee if the appeal is

decided in favor of the publisher and/or the inmate addressee, per the policy attached as Exhibit A.

7. Defendants will pay PLN \$5,500 in damages, attorneys' fees and costs within 30 days of entry of this stipulated judgment.

8. Galveston County Sheriff's Department has previously ordered two subscriptions to the Prison Legal News monthly magazine for placement in its jail law library. As part of the settlement of this case, the Galveston County Jail shall immediately renew those subscriptions to ensure that the publications are received for a minimum total subscription period of five years. The magazines shall be made available to inmates by placing them in the Galveston County Jail Law library.

9. The Galveston County Sheriff's Department shall purchase from PLN for placement in the jail law library those books set forth in Exhibit B. The books purchased from PLN shall be made available to the inmates of the County jail by placing them in the jail law library.

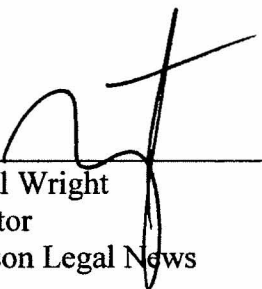
10. Nothing in this agreement will be construed to waive claims for incidents that have not yet occurred.

11. The parties to this Stipulated Judgment agree that the provisions herein fully and fairly accommodate the interests of the parties hereto regarding the issue of injunctive relief only in this matter, that the Court should adopt and approve this agreement as a Stipulated Judgment, and that this Stipulated Judgment is a full and final judgment between the parties with regard to permanent injunctive relief only.

12. The parties agree that in the event PLN shall feel the defendant is not in compliance with any term of this agreement it shall send a notice addressed to the Sheriff of Galveston County as well as to the Galveston County Legal Department or its successor organization advising Sheriff's Office how it is not compliant with the terms of this agreement and giving the Office at

least 30 days to come into compliance and/or reach an accord with the PLN.

13. Notwithstanding the dismissal of this case, the Court shall retain jurisdiction over the case for purposes of enforcing this stipulated judgment.



Paul Wright
Editor
Prison Legal News

Feb. 3, 2011
Date



Name: Don Gandy
For Galveston County and Sheriff Freddie Poor

2-10-11
Date

Exhibit A

Galveston County Sheriff's Office
601 54th Street
Galveston, Texas 77551
(409)-766-2300

Galveston County Sheriff's Office

Corrections Bureau

Jail Division



Policy and Procedure Manual
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Freddie Poor - Sheriff

JUDGMENT EXHIBIT A



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Revision Time Line

- Approved:

08 01 2010 – Approved – Chief M. E. Henson

- Published:

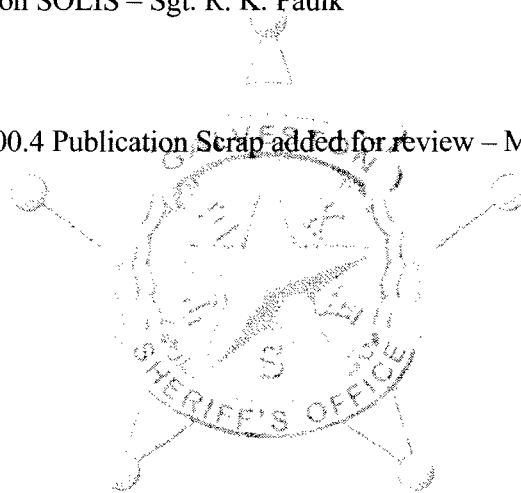
08 01 2010 – Posted on SOLIS – Sgt. R. K. Paulk

12 XX 2010 – Posted on SOLIS – Sgt. R. K. Paulk

- Amended:

12 15 2010 – Policy 600.4 Publication Scrap added for review – Major C. A. Holder

- Removed:





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GALVESTON COUNTY SHERIFF'S OFFICE
 MANUAL OF POLICY AND PROCEDURE

GC NO. 600.04

REVIEW (1)

CHAPTER: COMMUNICATION, MAIL AND VISITATION
 SUBJECT: PUBLICATIONS

APPROVED FOR IMPLEMENTATION:
 FREDDIE POOR, SHERIFF

DATE: 12/15/2010
 REVISED DATE: 12/15/2010

VI. COMMUNICATION, MAIL AND VISITATION

– GC 600.04

– PUBLICATIONS

IV. **POLICY:** All inmates are encouraged to read materials that will aid in their re-integration process. The Galveston County Jail recognizes the rights of inmate's to publications encouraging self-help and quality of life. This document sets forth the conditions and regulations necessary to ensure a consistent manner for proper processing of incoming publications.

V. **DEFINITIONS:** None

VI. **PROCEDURES:**

A. **PUBLICATIONS:** An inmate may receive publications in the mail only from the publisher or publication supplier, including bookstores, vendors and distributors. Inmate's ordering publications shall have payment secured from an outside source. Persons desiring to give publications directly to individual inmates may have the publication mailed directly to the inmate only from the publisher or publications supplier, including bookstores, vendors and distributors. Publications received by inmates may be in languages other than English.

B. **CONTENT INSPECTION OF PUBLICATIONS:** All publications are subject to inspection by Jail Staff who have the authority to accept or reject a publication for content, subject to review.

Rejection Due to Content

A publication may be rejected If:

1. It contains contraband that cannot be removed;
2. It contains information regarding the manufacture of explosives, weapons or drugs;



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3. It contains material that a reasonable person would construe as written solely for the purpose of communicating information designed to achieve the breakdown of prisons, jails through inmate disruption such as strikes, riots or security threat group activity;
 4. A specific determination has been made that the publication is detrimental to inmates' rehabilitation because it would encourage deviant criminal sexual behavior;
 5. It contains material on the setting up and operation of criminal schemes or how to avoid detection of criminal schemes by lawful authorities charged with the responsibility for detecting such illegal activity; or
 6. It contains sexually explicit images. Publications shall not be prohibited solely because the publication displays naked or partially covered buttocks. Subject to the review by the Mailroom Supervisor and on a case-by-case basis, publications constituting educational, medical/scientific or artistic materials, including, but not limited to, anatomy medical reference books, general practitioner reference books and/or guides, National Geographic or artistic reference material depicting historical, modern and/or post modern era art, may be permitted.
- C. NOTICE: If a publication is rejected, the inmate and sender shall be provided a written notice of the disapproval and a statement of the reason within 5 days of receipt of said publication on a Publication Denial Form. Within the same time period, the inmate, and the sender shall be notified of the procedure for appeal. The inmate and sender shall be given a sufficiently detailed description of the rejected publication to permit effective use of the appeal procedures. The inmate, and/or the sender may appeal the rejection of the publication through procedures provided by these rules.
- D. REVIEW PROCEDURES FOR DENIED ITEMS
- E. Handling of denied items: Any incoming or outgoing publications that are rejected shall not be destroyed, but shall remain with the mailroom officer subject to examination and review by those involved in the administration of appeals procedures outlined herein. Upon completion of the appeal procedures, if the publication is denied, the inmate may request that it continue to be held in the custody of the mailroom officer for use in any legal proceeding contemplated by the inmate, or that it be disposed of in one (1) of the following manners unless security concerns mandate the inmate not have a choice in the disposition:
1. Mail the publication to any person at the inmate's expense;



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2. Destroy the publication, only with the inmate's written permission, or;
3. Hold the property in the inmate's property bag.

F. PUBLICATION APPEAL PROCEDURE

1. Any inmate or sender of a publication may appeal the rejection of any publication.

G. HOW TO APPEAL

1. A written notice of appeal shall be sent to the Commander of the Jail within two (2) weeks of notification of rejection. Upon receipt of notification, the publication in question shall be sent to the Commander of the Jail.

H. FINAL DECISION

1. The Commander shall render his/her decision within two (2) weeks after receiving the appeal, and shall issue written notification of the decision to the parties involved within 48 hours.

I. IX. DELEGATION

1. The Commander may delegate decisions regarding publication denials to any staff member of the Jail.



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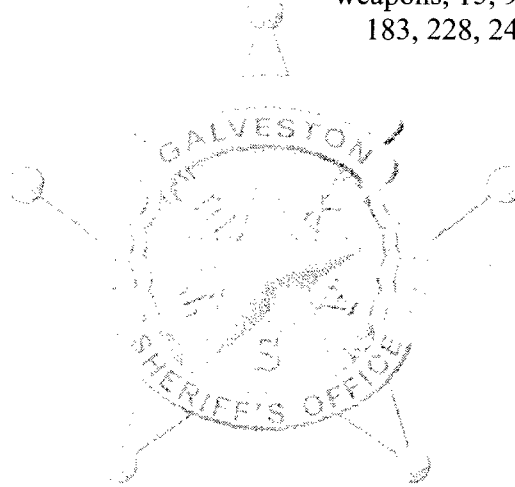


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Exhibit B

Prison Legal News
PO Box 2420
West Brattleboro, VT 05303

Sales Receipt

Date	Sale No.
2/8/2011	5467

Sold To
Galveston County Jail Law Library 57 W Ave H Galveston, TX 77551

CC: Y

Check No.	Payment Method	Project
1453	DOC Ck	

Description	Qty	Rate	Amount
Prisoner's Self-Help Litigation Manual ✓	1	39.95	39.95
Prison's Guerrilla Handbook To Correspondence Programs in The United States and Canada 3rd edition ✓	1	49.95	49.95
Protecting Your Health & Safety ✓	1	10.00	10.00
How to Win Your Personal Injury Claim, 7th Edition ✓	1	34.99	34.99
Everyday Letters for Busy People ✓	1	18.99	18.99
The Criminal Law Handbook ✓	1	39.99	39.99
Represent Yourself in Court ✓	1	39.99	39.99
The Blue Book of Grammar and Punctuation ✓	1	14.95	14.95
Legal Research, 15th edition ✓	1	49.99	49.99
Nolo's Deposition Handbook ✓	1	34.99	34.99
Writing to Win ✓	1	19.95	19.95
Finding the Right Lawyer ✓	1	19.95	19.95
Seize the Day! Steps to Achieving the Extraordinary in an Ordinary World ✓	1	15.99	15.99
10 Insider Secrets to a Winning Job Search ✓	1	15.99	15.99
The Habeas Citebook: Ineffective Assistance of Counsel ✓	1	49.95	49.95

on dotted line.

Online e-Label Record

Delivery Confirmation™ Service Number:

9102 9690 1038 3104 4841 96

Package Services with electronic option

Delivery Confirmation service*

Print Date: 02/09/11 Ship Date: 02/09/11

Electronic Option Delivery Confirmation Service Fee: 0.19

From: PRISON LEGAL NEWS
PO BOX 2420
BRATTLEBORO VT 05303-2420

To: GALVESTON COUNTY JAIL
LAW LIBRARY
5700 AVENUE H
GALVESTON TX 77551-8100

Package Weight: 1 lb. 0 oz. Shipping Cost: \$2.57

*Regular Package Services postage rates apply. Delivery Confirmation service electronic fee required. Postmark required if fee refund requested. Delivery information is not available

Total	\$455.62
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EXHIBIT B